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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,466	03/23/2004	Shuichi Hirukawa	20455203200	1703

25227 7590 10/24/2007
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

EXAMINER

SAYADIAN, HRAYR

ART UNIT	PAPER NUMBER
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2815

MAIL DATE	DELIVERY MODE
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10/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10806466	3/23/2004	HIRUKAWA ET AL.	20455203200

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EXAMINER

Hrayr A. Sayadian

ART UNIT	PAPER
2815	20071008

DATE MAILED:

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Commissioner for Patents

Note the attached explanation.

DETAILED FORM PTO-90 COMMUNICATION: NON-RESPONSIVE REPLY

1. Examiner's Art Unit [hereinafter "A.U."] number has changed from 2828 to 2815. Applicant should use 2815 as the A.U. number in further correspondence regarding this Application.

2. The "Reply" filed on 7/11/2007 does not fully respond to the 3/5/2007 Office Action at least because of the following omissions and matters.

37 CFR § 1.111 (b) requires that "[A]pplicant's ... reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action." 37 CFR § 1.111 (b) explicitly requires that a "reply ... present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references." And 37 CFR § 1.111 (b) explicitly notes that "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of" 37 CFR § 1.111 (b).

Applicant contends "inclusion of the limitations of allowable claims 2 in claim [renders] amended claim 1 ... allowable." See the third full paragraph on the fifth page of the Reply. Considering that independent claim 1 (now amended to include features of now cancelled claim 2) and claim 2 (now cancelled, but previously depending from previous claim 1) have been continuously rejected over prior art, Applicant fails to explain why Applicant considers claim 2 (now cancelled) to have been allowable and therefore making amended independent claim 1 allowable. Because of this omission, the Reply on its face fails to satisfy 37 CFR § 1.111 (b) and is therefore not responsive.

Applicant may remedy this first omission by specifically arguing, supported by bases in fact, why claim 1, amended to include features of cancelled claim 2, is allowable.

Applicant also contends "[t]he Examiner asserts that the thickness of the p- and n- layers are insignificant." (Quoted and underlined by Examiner for emphasis). See the second sentence in the seventh paragraph on the fifth page of the Reply. Applicant fails however to provide any support in fact for such a contention. By not allowing Examiner meaningfully either to confirm

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the contention or to reply to it, Applicant's unsubstantiated allegation hinders advancing this application to a final action.

Applicant may remedy this second omission by specifically pointing to a paragraph of an Office Action supporting Applicant's contention.

Accordingly, to avoid abandoning this Application, since the above-mentioned reply appears to be *bona fide*, Applicant must file a response correcting the above described omissions and matters within a shortened statutory period of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer. Extension of this time period may be granted under 37 CFR § 1.136(a).

CONCLUSION OF PTO-90 COMMUNICATION

3. Any inquiry concerning this communication or earlier communications from Examiner should be directed to Hrayr A. Sayadian at (571) 272-7779. Examiner Sayadian can normally be reached Monday through Friday, 7:30 am – 4:00 pm ET.

If attempts to reach Examiner Sayadian by telephone are unsuccessful, his supervisor, SPE Kenneth Parker, can be reached at (571) 272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available only through Private PAIR. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. The Electronic Business Center (EBC) at 866-217-9197 (toll-free) may answer any question on how to access the Private PAIR system.

HAS



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